

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

M.D.; STUKENERG, et al,

Plaintiffs,

v.

GREG ABBOTT, et al,

Defendants.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 2:11-CV-84

DECLARATION OF JEAN SHAW

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

1. “My name is Jean Shaw. I am of sound mind, over the age of 18 years, have never been convicted of a felony or crime involving moral turpitude, am in all ways competent to testify on the matters stated herein, have personal knowledge of the facts contained in this Declaration, and confirm that those facts are true and correct.
2. I am the Associate Commissioner for Child Care Regulation at the Texas Health and Human Services Commission (HHSC). I have held this position at HHSC since September 1, 2017. Before that, I held the same position at the Department of Family and Protective Services (DFPS) from July 1, 2016, until September 1, 2017. I was employed by DFPS for over 22 years, including 18 years of experience in Child Care Licensing and 16 years of experience in Residential Child Care Licensing.

Background

3. On March 11, 2020, the World Health Organization declared COVID-19 a global pandemic. On March 13, 2020, Governor Greg Abbott issued a proclamation declaring a COVID-19 disaster in all Texas counties.

Challenges for CCR Related to COVID-19

4. Because of the COVID-19 pandemic, HHSC Child Care Regulation (CCR) staff is spread thin across the state, focused on addressing COVID-19 issues. CCR is making its best efforts to allocate resources towards implementing the definitions for “pattern” and “heightened monitoring” that were issued on March 18, 2020, while ensuring that resources are not pulled away from other activities necessary to ensure child safety.

Heightened Monitoring

5. After the Court entered the order adopting definitions of “pattern” and “heightened monitoring” on March 18, 2020, CCR initiated the process with DFPS to determine what facilities would qualify for heightened monitoring under the new definitions. CCR will use a five-year data history to identify a pattern consistent with the March 18, 2020 Order.
6. Once DFPS has identified the facilities subject to heightened monitoring, CCR plans to use the existing weekly FITS meeting to develop heightened monitoring plans for three operations per week on a rolling basis until each of the initially identified operations are on heightened monitoring. Given the impact the COVID-19 epidemic is having on HHSC resources, this rolling out process will allow heightened monitoring to be implemented within the resources currently available. This work within FITS could be initiated during COVID-19 as it requires no onsite presence at an operation. Weekly inspections for up to ten operations statewide could begin once CCR is back to normal regulatory activities with existing resources. This staggered approach will also allow CCR the time to obtain and hire additional staff while simultaneously implementing the heightened monitoring process as defined in the March 18, 2020 Order.


Alternatives in Light of COVID-19

7. To minimize the spread of COVID-19, CCR has adjusted regulatory activities that require an onsite presence at the operation. These adjustments will revert to normal activities once the COVID-19 pandemic has passed. CCR staff are initiating and conducting investigations of all priority levels. However, for now, CCR is only conducting in-person investigations for Priority 1 Non Abuse/Neglect investigations and Priority 2 Non Abuse/Neglect investigations that are deemed high risk at the operation. All other investigations and investigation activities are being conducted via telephone at this time. In addition, except for the investigations described above, CCR is not currently conducting monitoring, follow-up, application, or other inspections. As a result, there is a developing backlog of inspections that will need to be conducted once activities related to the COVID-19 pandemic wind down, and CCR is developing a plan for staff to complete these inspections at that time.
8. Additionally, CCR is participating in FITS meetings with DFPS via conference call.

Resource Barriers to Heightened Monitoring

9. In addition to COVID-19 considerations that CCR will be dealing with for the duration of the pandemic, CCR will require additional resources to completely implement the heightened monitoring requirements set by the March 18, 2020 Order. This is especially true because CCR is committed to observing caseload/task guidelines and ensuring each operation is meeting or addressing regulatory requirements. Specifically, HHSC needs additional resources to participate in FITS meetings in every case, develop the heightened monitoring plans, and to complete the weekly visits to the operations on heightened monitoring once the pandemic is over.
10. After several discussions with DFPS, HHSC has determined that based on current information and analysis, it will need approximately 64 additional Full Time Equivalents (FTEs) to meet the demands defined in the March 18, 2020 Order.
11. CCR is working within the appropriate agency and legislative processes to secure funding to acquire 64 FTEs to reasonably complete the work needed to meet the heightened monitoring definition.
12. Further, the CLASS system is not configured to handle the expectations as defined in the March 18, 2020 Order. CCR estimates that enhancements to CLASS would cost \$2 million to overcome its limited ability to document the heightened monitoring plan, unannounced visits associated with the plan, and progress towards satisfying the plan. Manual processes would be required to be used in the interim but would limit CCR's ability to track and report on heightened monitoring efforts.
13. I declare under penalty of perjury that the foregoing is true and correct."

EXECUTED on April 1, 2020.



JEAN SHAW
Associate Commissioner for Child Care Regulation
Texas Health and Human Services Commission